

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
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2004 MAY 27 A 11:34

PETER L. DUFFY,)
)
Plaintiff)
)
Vs.)
)
DEPARTMENT OF THE NAVY)
Defendant)
_____)

Civil Action No. 04-10547-WGY

5 U.S.C. Sec. 552 and 552a
Complaint for Violation of
Freedom of Information Act
(FOIA) and Privacy Act (PA)

U.S. DISTRICT COURT
DISTRICT OF MASS.

MEMORANDUM TO AMEND COMPLAINT

Plaintiff respectfully submits this memorandum to correct a sequencing error in his complaint when citing exhibits. After reviewing Defendant's answer Plaintiff realized he had made a sequencing error. In accordance with Federal Rule of Civil Procedure 15(a), Plaintiff submitted a written request on 9 May 2004 for permission to amend his complaint, Exhibit A. Plaintiff followed up this request on 25 May 2004 with a telephone call to Ms. Anita Johnson, Assistant U.S. Attorney. Ms. Johnson provided verbal approval to submit this amendment.

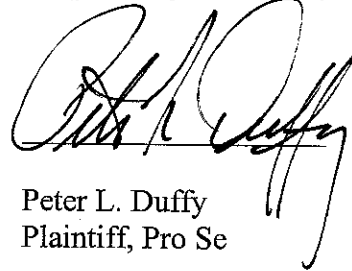
Specifically, Allegation #3, paragraphs 37 and 38, should read:

ALLEGATION #3

36. Paragraphs 4-28 are incorporated herein just as if fully recited.
37. Defendant has declared, in **Exhibit M**, page 2, "Therefore, under the Privacy Act, you are not entitled to access to the responsive records." Because "responsive records are not filed within a system of records"

38. Defendant previously declared, in **Exhibit K**, pages 1-2, “the records forwarded to NAVSEA for processing are not normally retrieved using a personal identifier”. Plaintiff respectfully submits that 5 U.S.C. 552a does not distinguish between “normally” and “not normally”. Furthermore, Defendants statement implies that responsive records were retrieved using a personal identifier, regardless if it were “normally” or “not normally” done, and therefore meets the system of records requirement.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Peter L. Duffy', written over a horizontal line.

Peter L. Duffy
Plaintiff, Pro Se

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